

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

BRANCH BANKING AND TRUST COMPANY,
a North Carolina Banking Corporation,

Plaintiff,

v.

CIVIL ACTION NO. 3:16-4962

RALPH F. FUGETT, JR.

Defendant.

MEMORANDUM OPINION AND ORDER

This action was brought by Plaintiff Branch Banking and Trust Company (BB&T) to collect on three Promissory Notes executed by Ralph F. Fugett, Jr. and Lisa Fugett. As Mr. Fugett never answered nor appeared in this matter, the Court entered default against him on July 22, 2016. ECF No. 13.¹ Upon motion of BB&T, the Court thereafter entered default judgment against Mr. Fugett on September 2, 2016. ECF No. 23. However, the Court denied without prejudice BB&T's request for an award of \$18,317.48 in attorneys' fees² because the information in support of BB&T's motion was insufficient. *Id.*

¹BB&T and Ms. Fugett stipulated that the action against her be voluntarily dismissed with prejudice. ECF No. 27.

²Contractual provisions in each Promissory Note provide that "[i]f this Note is placed with an attorney for collection, the undersigned agrees to pay, in addition to principal and interest, all costs of collection, including but not limited to reasonable attorneys' fees incurred by the Bank, if permitted by law." ECF No. 1-1, at 3; 1-5, at 3; and 1-8, at 3. The Promissory Notes indicate they were obtained for business and commercial purposes. *Id.* at 1.

On October 10, 2016, BB&T renewed its Motion for Attorney's Fees against Mr. Fugett and attached an affidavit by counsel and an itemized bill. ECF No. 28. In this motion, it requests a total of \$21,240.76 in attorneys' fees and costs. Upon review of the itemized billing statement and the affidavit, the Court finds that the costs and the lodestar calculation—the number of hours spent and the hourly rate charged—are reasonable. *See Beattie v. CMH Homes, Inc.*, Civ. Act. No. 3:12-2528, 2015 WL 4163337, at *2 (S.D. W. Va. July 9, 2015) (stating “the Court must calculate the lodestar by multiplying the ‘hours reasonably expended on the litigation . . . by a reasonable hourly rate’” (quoting *Hensley v. Eckhart*, 461 U.S. 424, 433 (1983))). Accordingly, the Court **GRANTS** BB&T's Motion for Attorney's Fees and costs in the amount of \$21,240.76. ECF No. 28.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and Defendant Ralph F. Fugett, Jr.

ENTER: December 20, 2016



ROBERT C. CHAMBERS, CHIEF JUDGE